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**FISCAL IMPACT STATEMENT**

**LS 7401**

**BILL NUMBER:** HB 1284

**NOTE PREPARED:** Jan 9, 2011

**BILL AMENDED:**

**SUBJECT:** Regulation of Dialysis Facilities.

**FIRST AUTHOR:** Rep. Crawford

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
X FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill Establishes the Dialysis Facility Council, and requires dialysis facilities to be licensed by the Indiana State Department of Health (ISDH).

The bill makes it a Class A misdemeanor for a person to knowingly or intentionally operate or advertise the operation of a dialysis facility without a license.

**Effective Date:** Upon passage; July 1, 2011.

**Explanation of State Expenditures:** *Summary:* The state dialysis licensure provision of the bill was estimated to annually require an additional \$370,000 to \$550,000 in 2007. Some of the additional expense would be expected to be partially offset by licensing fees to be determined by the ISDH. The Dialysis Facilities Council member's expense is estimated to be approximately \$2,000 per year. Revenues associated with the penalty provisions would be expected to be minor.

The bill establishes the Dialysis Facilities Council to consist of 9 members: the Commissioner of the Department of Health and 8 lay members to be appointed by the Governor. The Council is to propose rules pertaining to the licensure, operation, and management of a dialysis facility and rules pertaining to the establishment of standards for equipment, facilities, and staffing. The ISDH is required to staff the Council and fund the expenses. Members of the Council are entitled to a \$50 per diem and travel expenses. The Council is required to meet a minimum of twice each calendar year. Salary per diems would be \$800 annually if all members attend two meetings. Travel expenses reimbursed would depend on the home locations of the appointed members.

The bill requires that a dialysis facility must be licensed by the state in order to operate in the state. Currently, 133 dialysis centers in the state are certified for Medicare and Medicaid. All inspections and requirements for the facilities use only federal standards; the certification program is 100% federally funded. The certification program was budgeted by the Centers for Medicare and Medicaid Services (CMS) to cost \$370,000 for FFY 2007. Federal certification inspections are conducted once every three years. State licensure requirements that are more stringent than the federal certification requirements, including annual license renewals, will require 100% state funding. Federal funds should still be available at a conservatively estimated match rate of 50%.

If it is assumed that the ISDH licensure requirements and regulations will require from 2 to 3 times more resources than the resources budgeted for the federal certification program, additional state funding in a range of \$370,000 to \$555,000 is estimated to be required to implement the provisions of this bill. [This information will be updated with current information from the Department when it is available.]

The bill requires the Department to annually prepare and publish on its Internet website information regarding location, inspection results of each dialysis facility, information about remedial or licensure actions taken against a facility, and any other information the Department believes would assist a consumer. The ISDH website currently has a listing of all certified dialysis facilities with addresses and contact information. The cost associated with the additional information is assumed to be included in the estimated additional state cost for the licensure program discussed above.

**Explanation of State Revenues:** *Dialysis Facility Licensure:* The bill requires dialysis facility state licenses to be issued annually and provides that a license fee is to be adopted by the ISDH for the license and annual renewals. If a fee is established at \$500 and all 133 certified dialysis facilities maintain operations and meet the licensure requirements, revenue of \$66,500 would be generated to partially offset the additional state expenditures. This estimate is provided for illustration purposes only. The Department of Health would ultimately determine the level of the fee to be charged.

*Civil Penalties:* The bill provides that the Department may assess civil penalties in amounts not to exceed \$10,000 for violations of the provisions of the bill and the associated rules required to be promulgated. Civil penalties are deposited in the General Fund. The bill further provides that the Attorney General may seek an injunction or relief to include a civil penalty not to exceed \$25,000 per day for unlicensed operation.

*Penalty Provision:* The bill provides for a Class A misdemeanor for knowingly or intentionally operating an unlicensed dialysis facility. If additional court cases occur as a result of the operation or advertisement of an unlicensed dialysis center and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** State Department of Health; FSSA, OMPP; Attorney General.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** ISDH.

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